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SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): WRAP-UP FOR THE
WEEK ENDING JUNE 30

This is CWC-60-06.

ARTICLE VII

¶1. (U) Facilitator Maarten Lak (Netherlands) held two informal consultations on 23 and 26 June to discuss Executive Council 46 report language. On Monday, delegations were asked to choose between two texts, the draft EC-45 text and a new facilitator's proposal. Mexico intervened to relay its instructions: Mexico City is seeking a short text for report language; even the EC-45 draft would be too long. The facilitator's draft included CSP-10 decision language; there is no need to reiterate it yet again in report language. The CSP-10 decision was very balanced, a result of hard-fought negotiations. Mexico City cannot accept language that "cherry-picks" some elements of the decision but does not include other elements. Reiteration of a ten-page decision in report language is unacceptable; the decision could be attached to a Note Verbale from the Director General to implementing states. Finally, Mexico noted that language encouraging some EC members to reach out to states without a National Authority would set a dangerous precedent: it would encourage some states to exhort others on specific issues. India, in a terse intervention, noted that it could support only a very short text.

¶2. (U) Italy, supported by New Zealand, U.S., UK, Australia, noted it wanted to see another approach. The facilitator's draft has more concrete elements; EC-46 report language must balance encouragement for implementing states with pressure: only six months remain before EC-47. Italy also supports concise report language, but if the language needs to reiterate certain EC-47-related elements, so be it. The U.S. added that the report language must address four key elements: calls for establishment of NAs in the 16 SPs that missed the EC-45 deadline, reminders for states of the requirement that draft legislation be ready by EC-47, as well as for implementing states to provide the Technical Secretariat a status report of the steps taken towards

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enacting legislation, and calls for implementing states to

request assistance from the TS and states willing and able to provide requested support. The UK added that London feels the language needed to note the urgency and importance the EC sets on all states fulfilling their Article VII obligations. Algeria, Australia, Colombia, and Japan supported the U.S. call for increased assistance provided by SPs. In an apparent about-face, Mexico noted it also wanted to encourage states to request assistance as well as encourage states to provide it.

13. (U) The facilitator provided delegations revised text prior to the 26 June consultation (e-mailed to ISN/CB on June 27), on the basis of the earlier discussion, noting that he attempted to keep it short, balanced, while including the elements delegations deemed essential. The U.S. then introduced its non-paper, noting that it followed the structure of the facilitator's proposal, but incorporated more specific elements. The paper was provided to delegations to assist their consideration of the textual proposals. Individual elements would be introduced when each of the facilitator's paragraphs were discussed in detail. Next, India introduced its draft (faxed to ISN/CB), a short three-sentence document which noted the CSP decision, but did not contain specific elements. The text was supported by Algeria, Iran, Malaysia, Mexico, and Pakistan, and paralleled the first two paragraphs of the facilitator's draft. (Note: This group did not plan to provide its draft to delegations, but did so after requests by Germany, Italy, Japan, and the UK.) This led to a debate regarding how to proceed.

14. (U) The UK supported the U.S. draft, noting it largely reiterated CSP-10 text, precisely, and paralleled London's comments regarding the facilitator's draft. The UK added that it would provide the facilitator text regarding the decision's paragraphs 12-14 regarding the steps to be taken with regard to those states that have yet to respond. Italy

also supported the U.S. draft, because it made clear reference to the main obligations set out in the decision. The Russian Federation echoed the Italian comments.

15. (U) The facilitator called for delegations to work on the basis of his text, and to submit textual proposals during the debate. New Zealand noted that this text provided a good basis for delegations' work. Ambassador Javits, supported by Canada, Italy, and Japan, noted that report language would set the tone for our work, not be a substitute for actual work to be done. The language must recognize the many accomplishments to date, balanced by the work that still remains. Little time is left, the language must remind implementing states of what needs to be done and the deadline by which it needs to be reported to the TS. Simply exhorting or encouraging ourselves to do more is not enough. We must inspire implementing states to take action. We must not weaken the CSP decision, by not giving targeted and specific information to implementing states, which will require carefully tailoring the facilitator's draft to reflect the actual situation. Iran supported Ambassador Javits' statement, but noted we are not crafting decision language, we are writing report language. EC report language looks back and assesses what has been done (or not), not forward to what is needed next.

16. (U) Lak recommended that interested delegations remain beyond to begin revising text. Iran said that it needed to consult with Tehran, so that it could not participate. Drafting was postponed to Monday 3 July.

VARIOUS UPDATES ON IMPLEMENTATION OF ARTICLE VII

17. (U) The TS announced that the Federated States of Micronesia announced the establishment of its NA in the Department of Justice on 26 June. Mexico noted that its National Authority had participated in a Technical Assistance Visit to Honduras with TS officials, to assist with the establishment of its NA and to share Mexico's experience

implementing Article VII. Honduras is expected to announce establishment of its NA within the week. New Zealand announced that its voluntary contribution assisted former TS official Keith Wilson's efforts in the Pacific Island Forum. In addition to work just completed in Micronesia, Wilson had high hopes for Tuvalu and Kiribas. The latter just passed its legislation and is awaiting the royal decree to finalize its legislative process; this should occur during EC-46. PNG just filled the long vacant position responsible for Article VII implementation (as well as implementation for other treaties), which may provide an opening for progress. Italy noted that it had made overtures to a number of implementing states, and is providing assistance to some of them (no further information) and it found that many requested "the latest version" of the requirements (as set out in report language).

¶18. (U) During the 29 June consultation, the U.S. noted that delegations really did not know which states had yet to respond on either Article VII or National Authorities. Which states were partially done, which were just about to finish. The TS replied that the nonresponders are primarily those without National Authorities: Afghanistan (willing but situation bad at the present time), Bhutan, Cambodia (have NA but not working, attended French course for NA members), Mauritania (has replied to some element of the TS questionnaires), Nauru (Wilson trip imminent, expect good results), PNG (difficult security situation, difficult case), Timor-Leste (post-conflict situation), Tuvalu (progress possible), Vanuatu (progress possible). Privately, Australian NA rep Josie Meyers told delrep that Australia is assisting Cambodia's implementation effort and is working with Cambodia's NA. Australia is translating the CWC annexes and reviewing the translation of the CWC itself, in order to provide parliamentarians with complete text. This is the final element needed in order for the Parliament to consider its draft legislation.

¶19. (U) In response to an Italian question about what implementing states want to have, Onate responded that they always want to hear that assistance is available from the TS or member states. They fear assistance will melt away, leaving them in limbo. In response, Mexico, supported by the U.S., noted that it would help both implementing states and assisting states if there were a "Implementation help-desk," to coordinate requests for and offers of assistance. Onate agreed and said that this would be established during EC-46.

ARTICLE VII OUTREACH - TAVs

¶10. (U) Del reps met with Deputy DG John Freeman, Amb. Onate, Ian Richards (DDG special advisor), and Vidyadhar Dhavle (ICA) regarding technical assistance visits (TAVs). The meeting was at Freeman's request.

¶11. (U) Freeman began by encouraging consolidated U.S. coordination with the TS. To facilitate this, they requested that we contact Amb. Onate as our one-and-only point of contact. He also emphasized that, in order to ensure that the TS can justify the funds utilized to the SPs that contributed them, they feel they can only use these funds to cover travel and DSA (i.e., per diem) expenses. They do not see other expenses, like the rental of meeting space and refreshments, as a requirement. They really feel that the host government/NA needs to make certain efforts to support these TAVs, and the providing of these basics is a minimum. They also feel that meeting in government office space gives more of a feel of legitimacy to the process than rented space does. Lastly, he encouraged that the TS be more involved in the planning process for these TAVs.

¶12. (U) One example was briefly discussed, not because it was an extreme example, but because it was immediate -- Suriname. The providing of rented meeting space and refreshments was requested by the host government and supported by the U.S. The TS said that they were approached by the U.S. through two

different avenues - Amb. Onate and Dhavle - to request that the TS cover these expenses. When this was denied and explained, the U.S. asked about the possibility of using some of our contribution for that purpose. As it was still unclear whether it would be needed or not, Dhavle was required to carry cash from the U.S. contribution with him in the event it was needed. Our effort to avoid this kind of situation in the future was requested. The TS did mention several times their appreciation for the U.S. efforts with Suriname, which was a closed door to them until the U.S. intervened.

¶13. (U) When the TS receives direct requests for TAVs from SPs, they discuss the details and then summarize them in an aide memoir to avoid confusion and unrealistic expectations. The TS agreed to provide us with an example of what they use, in the event we want to do something similar.

¶14. (U) The TS also stressed the value of scheduling further in advance, thus allowing the opportunity for the TS to make the best possible arrangements. They observed that, on average, the cost of joining U.S.-organized visits has been 30 to 40 percent higher than those organized by the TS. They were quick to point out that this is not a show-stopper, but rather something to keep in mind. They also have concerns about going to places where they have already been before (e.g., Sri Lanka). With that in mind, they will be focusing their attention on the following SPs from the U.S. proposed list of May 24: Suriname (underway), Trinidad and Tobago, Nicaragua, Djibouti, Bangladesh, and Paraguay. (The Del did point out how our proposed list was compiled.)

¶15. (U) Upcoming efforts: The TS said they had just received a request from Liberia for a visit in August. Given scheduling difficulties for the TS in August, they will be pushing for September. They will be contacting Edna Sidler of ISN/CB concerning this visit. Germany has requested to be involved in upcoming trips to El Salvador and Namibia. (Note: Given the U.S.-led visit to El Salvador last year,

this may be an area where we might want to question the need for the visit with the TS, particularly in light of their concern on repeat visits.) For Bangladesh, the TS focus is the bill that is being or has recently been presented to Parliament. November is the best estimate that Bangladesh could give for this visit.

INDUSTRY CLUSTER - SCHEDULE 3 TRANSFERS

¶16. (U) The facilitator (Arya Sandeep, India) had done quite a bit of preparatory work before this consultation to decide if there was a chance of reaching consensus during this consultation, as it will be his last as facilitator. Because of this, the most vocal delegations (including Iran, Germany, and the U.S.) came with clear guidance on how to proceed.

¶17. (U) Knowing that the German delegation was likely to insist on the removal of two operative paragraphs that Iran saw as crucial, the U.S. deployed its guidance first as a more positive step forward, and this was received favorably by both Germany and Iran. The U.S. proposal was seen as the most likely way forward by all delegations who spoke up. It was agreed that further work would be undertaken to see if language could be agreed before Sandeep's departure.

¶18. (U) Following the facilitation, two other sessions were held in which Iran, Germany, and the U.S. worked on cleaning up the language. The group is sufficiently close that it can recommend to the facilitator that it warrants distributing to the other delegations as early as July 3. (This draft will be faxed back to Washington.)

¶19. (U) Although the facilitator and Iran would both prefer to have this resolved and presented to the EC, Germany has concerns about being too hasty. The goal is to try to finish the language next week and then giving capitals sufficient

time to be certain they can live with the language, with the goal to present the decision at EC-47.

INDUSTRY CLUSTER - LATE DECLARATIONS

¶20. (U) In this second consultation on this topic, the TS started by presenting the efforts it undertakes annually to remind SPs of their Article VI declaration obligations, both in advance (to all SPs) and afterward (to those who have declared in the past but did not by the current deadline). There was some discussion about how we should define "late declarations", with particular concern on those SPs that have not submitted anything - this will be further investigated, using Article VII data to supplement TS declaration reporting. There is still some desire (e.g., France) to know the true impact late declarations has on verification activities, pointing out that the Verification Information Report could be used to give trends without having to go into sensitive details about the TS inspection draw process.

¶21. (U) Some delegations (e.g., UK) pointed out that, despite the pragmatic suggestions by France, there is still the need to focus on these declaration requirements as clear obligations. Several delegations shared how their NAs work with their industry to ensure timeliness of declarations. The facilitator (Denyer, U.S.) presented an overview of the oral opinion received from the Legal Adviser on the concept of "nil" declarations, and there was a general desire to see that in writing. Some WEOG delegations (e.g., Switzerland) spoke up in favor of "nil" declarations, with the understanding that there are still many details to be worked out on how this might work.

INDUSTRY CLUSTER -LOW CONCENTRATION LIMITS: SCHEDULE 2A/2A*

¶22. (U) The facilitator (Steve Wade, UK) forwarded to delegations in advance of this week's meeting a Legal

Adviser's opinion on the latest facilitator's paper. The Legal Adviser was not able to be there to answer questions. Most delegations indicated that their capitals were still reviewing the opinion. Several delegations said they were happy to see the opinion, pointed out that they had originally preferred very low concentration limits, and reconfirmed their willingness to be flexible and support the facilitator's paper. Several other delegations expressed continuing concern about the proposal and how it interprets the text of VA Part VII para 5. Several delegations (e.g., Germany, Japan) expressed a desire to return to the facilitator's October 2005 paper as a new start to a way forward.

¶23. (U) In his summary, the facilitator pointed out what he thought needed to be done in order to have a chance for a decision at CSP-11. He stated frankly that, if we can achieve no real progress in the September industry cluster, the best approach may be to refer this back to the EC for further guidance. He stated his availability here through EC-46.

INDUSTRY CLUSTER - OCPF SITE SELECTION

¶24. (U) Facilitator Luis Garcia (Spain) held a 28 June consultation to discuss his draft paper on a possible new way for states to provide input on which OCPF facilities should be inspected. Although most delegations were without instructions, all were favorably inclined to the facilitator's proposal to make selections based on technical information from a complete, randomized list of all inspectable OCPFs. Argentina, Australia, Brazil, Canada, China, Finland, India, Iran, Ireland, Italy, Japan, Mexico, New Zealand, and Russia, noting that although their

delegations had received no instructions, they thought this idea provided a good basis for the work, although the concept needed to be fleshed out. Only the UK sounded a negative note, concerned that some NAs would have difficulties making selections.

¶25. (U) Ideas discussed included the pros and cons of establishing limits on the number of points assigned to any one facility or and one state overall, how to present the list of facilities (include A14, delete the SPs' own facilities for each state), how best to combine the three factors (equal weights or not), and whether it would be necessary to worry about possible impacts of collusion. The facilitator agreed to flesh out the details of the proposal for discussion at EC-47. The U.S. (supported by the roomful of delegations) suggested that the draft needed to be made available in early September so that delegations would have instructions prior to the late September industry intersessional. Further, interested delegates should meet with the facilitator and TS in July, to consider possible numerical scenarios for the TS to provide delegations, in order to better inform them of the mechanics of the proposal. This needed to be provided well in advance of the next industry meeting as well. The facilitator noted he would be away the month of August and very busy in July, but that he would do his best to flesh out his proposal for delegations by late July.

INDUSTRY CLUSTER - TRANSFER DISCREPANCIES

¶26. (U) This was the first meeting of this facilitation under its new leadership - Kiwako Tanaka (Japan). (The co-facilitator, Merel Jonker of the Netherlands is currently on maternity leave.) The meeting began with a presentation by Daniel Cardozo (TS, Declarations Branch). Delegations found this introduction useful, and one asked that this be put into a non-paper to capture the details.

¶27. (U) Discussion included concerns about how to balance data and definitions, whether the EC should look at the low response rate to TS clarification request, sensitivities

about making suggestions to SPs on how they gather data, how pre-transfer coordination can lessen the chance of discrepancies, etc. Reference was also made to previous paper prepared by Canada and Australia that might help in determining a way forward. Germany also agreed to consider a request to present information on how free zones/ports work, using the EU as a model.

ARTICLE X

¶28. The facilitator (Hans Schramml, Austria) for Article X held consultations on June 30. The two topics for discussion were report language for EC-46 on the Database for Protection and the language on Reporting on APB Program Activities. Discussion commenced with the UK delivering the background of the proposed language and noted three additions to previously distributed text. Because of the complications involved in adding this item to the EC-46 agenda, Iran asked for the following line to precede the text: "The Council continued its consideration of the implementation of Article X." India asked for language to confirm that OPCW confidentiality rules were in effect: "...of any requesting State Party, and in accordance with OPCW policy on confidentiality, a database containing..." And Iran made a further suggestion to replace "... (i.e. descriptive information about..." with "... (such as information about..."

¶29. (U) Privately the UK agreed with Ambassador Javits that the language on confidentiality was unnecessary, but they were willing to accept it as it is essentially meaningless. Italy was willing to be flexible, but asked to delete that whole section, other delegations, including China, India and

France supported keeping it in. After agreement was reached on this, the TS asked for the floor to note that so far only eight Questionnaires on Offers of Assistance have been received so far. While this is not a mandatory report, they asked for delegations assistance to garner more responses.

¶30. The second topic, Reporting on Assistance and Protection Bureau Program Activities was discussed next. Canada, the driving force behind this language, briefed delegations. There was widespread agreement on the language as written. Iran asked to add "of States Parties" at the end of the last line. They were convinced to stand down when reminded that if an International Organization or private company committed money to APB activities, with their suggestion the results wouldn't have to be reported, and that this language was intended to be a transparency measure.

FINANCIAL RULES

¶31. (U) The financial rules consultation on June 30 resulted in consensus on the draft financial rules which will now be forwarded to EC-46 for approval and ultimately the CSP in December for approval. The facilitator (Snelsire - U.S.) told delegates that at an earlier small meeting of interested delegations (France, Germany, India, and Iran), delegates had agreed to accept the original amended draft language proposed by India concerning procurement provided the word "all" was deleted before "States Party" in rule 10.6.04(d) and 10.6.05(c).

¶32. (U) Iran then proposed adding a clause stating (" in order to fulfill the inspection requirements." at the end of 10.6.04(d). Interestingly, they did not propose adding the same language at the end of 10.6.05(c). Iran had earlier proposed the language privately to France, Germany and the facilitator but the facilitator suggested that it would be more transparent to propose the new addition at the consultation with an explanation. France and Germany had told the facilitator that they would likely reject the new additional language and force Iran to raise it from the floor of the EC but at the last minute in the consultation, Germany decided to protest the additional language but not block consensus.

¶33. (U) The French delegation did not attend the consultation but told the facilitator that they would go along with whatever the Germans decided to do. Del rep said the U.S. did not support the Iranian language but in the interest of passing the financial rules would not block consensus. The Iranian delegate, when asked to justify the additional language, candidly said that the language had no meaning and was not substantive but that one of the agencies in the Iranian inter-agency process had asked for it largely as a face saving exercise. The financial rules were approved by consensus.

¶34. (U) The facilitator spoke with the TS Legal Advisor before the consultation and asked him if the Iranian proposed language would prevent the TS from purchasing inspection equipment that was not available in all countries. The Legal Advisor told the facilitator that in his personal opinion the amended procurement language was meaningless and would have no impact on TS procurement activities. The facilitator told the Legal Advisor that the U.S. would likely send a letter for the record to the TS expressing the U.S. view that inspection equipment does not have to be available to every country to be eligible for purchase. The Legal Advisor said that he saw no problem with the U.S. sending such a letter for the record.

¶35. (U) Javits sends.
ARNALL